

REMARKS

REJECTIONS UNDER 35 U.S.C. § 102 (e):

Claims 1 – 2, 4, 7 – 11 and 14 – 15 have been rejected under 35 U.S.C. § 102 (e) as allegedly being anticipated by Thursby et al. (U.S. patent 6,489,925).

It is respectfully submitted that the cited reference US patent 6,489,925 to Thursby et al was filed on May 31, 2001. The priority date of the present application is October 4, 1999. Since the priority date of the present application is earlier than the filing date of the cited US patent 6,489,925, it is improper to cite US patent 6,489,925 as prior art against the present application under 35 U.S.C. § 102 (e).

The Examiner indicated in the office action that the priority document has not been received. Applicant respectfully submitted that the Priority Document has been received by the U.S. Patent and Trademark Office as indicated in the Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (“Notice”) mailed May 14, 2002. A copy of the Notice is hereby enclosed for Examiner’s reference.

Therefore, because US patent 6,489,925 is improper as prior art against the present invention as claimed, withdrawal of the rejection under 35 U.S.C. § 102 (e) is respectfully requested.

REJECTIONS UNDER 35 U.S.C. § 103:

Claims 5 – 6, 12 – 13 and 16 have been rejected under 35 U.S.C. § 103, as allegedly being obvious and unpatentable over Thursby et al. (U.S. patent 6,489,925).

It is respectfully submitted that "before answering *Graham*'s 'content' inquiry, it must be known whether a patent or publication is in the prior art under 35 U.S.C § 102." *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1568, 1 USPQ2d 1593, 1597 (Fed Cir.), *cert. denied*, 481 U.S. 1052 (1987) (MPEP 2141.01). As stated above, because U.S. patent 6,489,925 is improper to be cited as prior art under 35 U.S.C § 102 due to the fact that its filing date is later than the priority date of the present invention, U.S. patent 6,489,925 is also improper to be used as prior art under 35 U.S.C § 103 against the present invention as defined in Claims 5 – 6, 12 – 13 and 16.

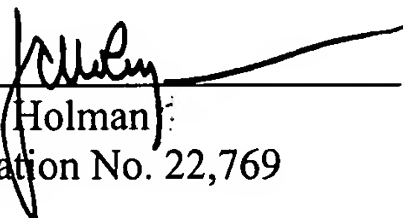
Therefore, the rejection to Claims 5 – 6, 12 – 13 and 16 under 35 U.S.C. § 103 has been overcome. Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. § 103 be withdrawn.

Having overcome all outstanding grounds of rejection, the application is now in condition for allowance, and prompt action toward that end is respectfully solicited.

Respectfully submitted,

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Enclosed:
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